

1899 - 28

Saukhampton County Chancery

Scott, Milla
inf -

vs. Smith, Mary A

2 little infants
Estate

Scott, Henry, her
next friend,

Milla Scott infant by
next friend

as } Bill
 } Exhibit

Mary A. Lunt

To the Honorable R. R. Pontis judge
of the circuit Court of Southampton
County in chancery sitting

Bluntly complaining your
good friend Missa Scott an infant of
tender years who was by Henry Scott
her next friend sheweth unto your Honor
That on the 8th of Jan'y 1875 J. F. Smith
who was seized and possessed of a tract of
land in Southampton County containing 130
acres gave a deed of Trust on the same
to R. A. Bristow Trustee to secure a
debt due to John A. Hundley for \$200
and on the 1st of July 1881 gave a deed
of Trust on the same land to John
R. Sebrill Trustee to secure a debt for
\$200 due to John A. Hundley all of
which will more fully appear by copies
of the said deeds herewith filed marked
exhibits A & B and prayed to be Taken
as facts in this bill that on the 12th
of Jan'y 1883 J. F. Smith sold to
Pigson Scott 20 acres of this land for
the sum of \$100 and placed her
in possession giving her a deed with
general warranty as will appear more
fully by a copy of the said deed herewith
filed marked C and prayed to be Taken

And that Mary A Smith had free notice of the
sale and delivery of this land to Myron Scott
and of the application of the purchase money
to the land certificate before she became the purchaser of
the land certificate.

as a part of this bill and that this land
was owned and the said land was
transferred to her ^{in 1886} as well as by a receipt
from Commissioner Gary Smith filed marked
D and prayed to be taken as a part of
this bill.

Your Orator sheweth further unto
you that in the year 1890 Myron
Scott departed this life intestate leaving
an only child ^{as} his son at law who
states further that since her mother's
death she has had the said 20 acres
of land ~~intestately~~ ⁱⁿ custody up to this
time.

She states further that J. F.
Smith departed this life in the year
1898 leaving first duly made and
published his last will and testament
a copy of which is herewith filed
marked E. That in the said will he
appointed his wife his Adm^{or} and
making ^{her} his sole Admin^{or} and distributee
all of which will more fully appear
by a copy of the said will herewith
filed, that in the year 1898 the
said Mary A Smith not paying off
all the debts due to John A. Kennedy,
upon request made the said Fred
Bristow and others sold the land

and Mary A Smith became the
purchaser for the sum of \$610 and
that after paying off all the debts
owed by the club of trust there
was a surplus of two hundred
and forty six dollars and thirty six
cents and that on the 14th of August
1891 the said Trustees Bristol and
Steele paid over this sum of money
to Mary A Smith who receipts to
them for the same as Adams and
sole Deviser of J. F. Smith dec^d.
All of which will more fully by a
copy of a receipt herewith filed marked Hth
and prayed to be taken as a part of this
bill. Your Orator states further
into your Honor that on the 1st
Monday ^{in March} 1896 Mary A Smith files a
declaration in Ex parte against her
and others for the recovery of this
land which is now pending and
undecided as to her on the common
law side of the circuit of Court
Southampton County. Your Orator
sheweth further into your Honor that
unless this Mary A Smith is restrained
by an injunction of this Court she
may inflict a grievous wrong and
injury on her as she has no adequate

redress or remedy in a court of law
In the first place Your Orator Throughe
her written hold a deed from J. F. Smith
with general warranty whereby he guarantees
to her a good and valid title the land
has sold under deed of trust for
J. F. and Mary A. Smith became the
purchaser, That after paying off the
debt due to John A. Hundley under the
said deed of trust there was a
surplus of \$246.34 in the hands
of the said Males which they paid
to Mary A. Smith for which she
received both as the personal representative
of J. F. Smith and his sole and
sole devisee and distributee and therefore
if against equity and good conscience
she should be evicted at common law
she has a claim and damages
against J. F. Smith as for the purchase
money of this land some \$100 and
the years interest

In Trenchard consideration whether
and inasmuch as your Orator is
without remedy at law and only entitled
to relief in a court of equity where such
matters are peculiarly cognizable she
therefore prays that the said Mary A.

Smith may be made a party defendant
 to this bill and that the court would
 compel her ^{to} full and perfect answer
 make to the allegations therein contained
 as if she had been thereto sworn fully
 and specially interrogated but answer on
 oath is hereby specially waived That the
 said Mary A. Smith answer especially if
 if she did not receive from the said
 Trustee V. Weston a check on August the
 19th 1895 the sum of \$246.36 and
 receipt to them for the said sum as
 Smith's legatee and sole devisee under
 his will, That the court would by its
 decree ~~in this~~ enjoin Mary A. Smith
 from prosecuting the action of ejectment
 which she has now pending at law
 in the circuit court of Southampton
 against her that all necessary accounts
 may be taken and that the court would
 grant such other and general relief the
 justice considered as equity may dictate
 and the nature of her case may require
 and as in ~~that~~ bond gone Oration
 will ever pray we

Witness her hand by Henry
 Scott and friend.

Shames to Love p. 5.

State of Virginia. Southampton County to wit:

This day Henry Scott next friend of Milla Scott
an infant of tender years, who was by the said
Henry Scott in the said bill of injunction
both original & as amended,
personally appeared before me in my Office
and made oath that the facts set forth
in the above bill are true to the best of
his knowledge & belief.

Given under my hand this 28th day of
Sept. 1896

L. R. Gay C. C.

Received Aug. 19. 1895 of R A Bristow and
Jr Sebrall Trustees, Two Hundred and forty
Six & $\frac{36}{100}$ dollars, in full of balance in
their hands, after paying trust fund due
John C Stundley, under two Deeds of Trust
dated respectively Jan. 8, 1879. and 1st day
July 1881. from J. F. Smith, to said Bristow and
Sebrall for benefit of John C Stundley.
signed. Mary C Smith

Admin^r of J. F. Smith and
sole devisee under the will
of said J. F. Smith deceased.

The above is a True copy of a receipt
from Mrs Mary C Smith in my possession.

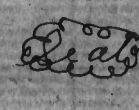
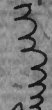
Jr Sebrall

Deed of Warranty

Know all men by these presents that I Frank Smith in the County of Southampton & State of Virginia, in consideration of One hundred (\$100) Dollars to me paid by Missouri Scott in the County of Southampton and State of Virginia, the receipt whereof is hereby acknowledged do hereby give grant bargain & sell & convey unto the said Missouri Scott her heirs and assigns twenty acres of land known as a part of the Mathew Wornell tract of land situated on the Quaker Road in the said County bounded and described as follows to wit: On the East by the land of Robert Wornell then running down the Quaker road to pine taking then a straight line to the land of Johnson Barnes & Mary Wornell to have and to hold the above granted premises to the said Missouri Scott her heirs and assigns to his and their use and behoof forever.

And I the said Frank Smith for my self and heirs, executors & administrators do covenant with the said Missouri Scott her heirs & assigns that I am lawfully seized in fee simple of the above granted premises that they are free from all incumbrances, that I have good right to sell & convey the same to the said Missouri Scott her heirs and assigns forever as aforesaid and that

I will and my heirs executors & administrators
shall warrant & defend the same to the said
Missouri Scott her heirs and assigns forever
against the claims and demands of all
persons,

In Witness thereof I the said Frank Smith
have hereunto set my hand & seal this
12th day of Jan'y in the year of our lord
eighteen hundred & eighty five
Signed sealed &  J. F. Smith
delivered in presence of 

Southampton County In the Clerks Office
Jan'y 31st 1885 This Deed of Bargain & Sale
from J. F. Smith to Missouri Scott was
this day received and acknowledged by
said Smith to be his act & admitted to record

Teste

J. B. Prince C. C.

Smith J. F.
To 3 Deed B & S

South Missouri

Smith
To ³ Dad
Newbury Trustee

B

This Deed made this 15th day of July
A.D. 1881. between J. F. Smith of the one
part and John W. Schell Trustee of the
other part, both of Southampton County
Va. Witnesseth: that for and in
consideration of the sum of Two
Dollars in hand paid the said J.
F. Smith doth grant and convey
unto the said John W. Schell Trustee
as aforesaid, that tract or parcel
of land lying & situate in Jerusalem
District containing 150 acres
more or less, and bounded by the
lands of Nathan Johnson, Jephtha
W. Johnson, Robert W. Worrell
and others, it being a part of the
tract formerly belonging to Mathew
Worrell decd and purchased by said
Smith of Charles C. Broadbent.
In Trust however to secure the
payment of a note due John A.
Shindley, bearing date July
15th 1881 amounting to Two Hundred
Dollars \$200.⁰⁰ and payable on demand
The said tract is conveyed with general
warranty. It is agreed that in
case of a sale of said tract of land
to satisfy this Trust Deed or

commission of 5% com's on gross sales
shall be allowed the trustee
Witness the following signatures & seal

J. F. Smith *Deat*
State of Virginia
County of Southampton to wit

I W. J. Sebrell
a commissioner in Chancery for the
County Court of the County aforesaid
do certify that J. F. Smith whose
name is signed to the writing
above bearing date 1st day of July
A.D. 1881 this day personally appeared
before me in my said County and
acknowledged the same to be his
act and deed.

Given under my hand as commissioner
aforesaid this 6th day of July A.D. 1881

W. J. Sebrell

Comm. in Chancery

Southampton County. In the Clerk's Office
July 6th 1881 This Deed of Trust from
J. F. Smith to J. W. Sebrell Trustee for the
benefit of J. A. Newby was this Day
received and with the certificate

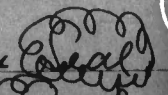
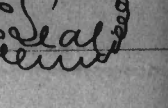
thereunto annexed admitted to record

Teste: L. B. Edwards C. C.

whereas by two certain deeds of Trust
executed on the 8th day of January
1879, and on the 1st day of July 1881
respectively, J. F. Smith in order
to secure certain indebtedness therein
mentioned, conveyed to R. A. Bristow
and J. N. Sebell Trustees that certain
tract or parcel of land with all the
improvements thereon by any and
situate in Jerusalem District on
the road leading from Ticksville
to Black Creek containing 100
acres more or less, are bounded
by the lands of Nathaniel & John
Brew Johnson, John Davis Johnson
Barries & others. It being the tract
upon which J. F. Smith resided
at the time of his death and
whereas default being made in
the payment of the debt thereby
secured the said R. A. Bristow and
J. N. Sebell Trustees did on May 20th 1895
after giving due notice of place &
time expose to sale by public auction the
said tract or parcel of land herein
before mentioned and described at which
said sale Mary A. Smith became

the purchase thereof in the sum of six
hundred and ten dollars. And whereas
the said purchase price has ^{fully} been paid and
the said Mary A Smith is entitled
to a deed. Now therefore this deed
made this 19th day of August 1895
between R.A. Bristow and J.N. Seball
Trustees as aforesaid of the first part
and Mary A Smith of the second
part Witnesseth: that the said
R.A. Bristow and J.N. Seball Trustees as
aforesaid for and in consideration of the
premises and of the sum of ~~six~~ hundred
and ten dollars do grant bargain
sell, and convey with special
warranty unto the said Mary
A Smith of the second part the
said tract or parcel of land with
improvements thereon above mentioned
and described

Witness the following signatures and
seals this 19th day of August 1895

R.A. Bristow Trustee 
J.N. Seball Trustee 

Virginia

In the Clerk's Office of the County
Court for Southampton County Aug
19th 1895 This Deed was presented, acknowl-
edged in this Office by said R. A.
Bristow & J. N. Sebrill (Trustees) to be
their act & deed & admitted to record

Teste B. F. W. Lenoir C. C.

Smith
Deed of Trust
To
Barstow Justice
for
Jas A Wurdley

A

This Deed, made this 8th day of January in the year one thousand eight hundred seventy nine, between Joseph F. Smith of the one part and R. A. Bristow (Trustee) of the other part, Witnesseth: That the said Joseph F. Smith doth grant unto the said R. A. Bristow Trustee, the following property to wit: One certain piece or parcel of land containing one hundred and fifty acres more or less, it being the same land as purchased of C. E. Bradshaw and deeded the 31st day of December 1878 and bounded as follows: On the East by Nathan and Mrs. Drew Johnson, on the South by the road leading from Ticksville to Black Creek Church and known as the Quaker road, on the West by the lands of Mrs. Davis and Johnson Branch and known as a part of the Matt. Sewell track, In Trust to secure the payment of the sum of Two hundred Dollars (\$200.00) due to Mrs. A. Shindley and payable the 1st day of January 1880 with interest from the 1st day of January 1879 as per bond dated 8th day of January 1879. In the event that default shall be made in the payment of the above mentioned bond, then the Trustee or being required so to do by Mrs. A. Shindley or her said heirs successors or assigns, shall sell the property hereby conveyed, And it is covenanted and agreed between the parties aforesaid

that in case of a sale, the same shall be made after first advertising the time, place and terms thereof for thirty days, and upon the following terms to wit: for cash, as to so much of the proceeds as may be necessary to defray the expenses of executing this trust the fees for drawing and recording this deed if then unpaid, and to discharge the amount of money then payable upon the said bond, and if there be any residue of said purchase money, the same shall be made payable at such time and secured in such manner as the said Joseph F. Smith his executors, administrators or assigns shall prescribe and direct, or in case of failure to give such direction at such time and in such manner as the said Trustees, or either of them shall think fit. The said Joseph F. Smith, covenants to pay all taxes assessments, dues and charges upon the property hereby conveyed, as long as he or his heirs or assigns shall hold the same.

Witness the following signature and seal

J. F. Smith

State of Virginia
County of Northampton, to wit:

I M. D. Butler, a Notary Public for the

County aforesaid, in the State of Virginia
do certify that Joseph F Smith, whose
name is signed to the writing hereto
annexed, bearing date on the 8th day
of January 1879. has acknowledged
the same before me in my County
aforesaid,

Given under my hand this 8th day of
January 1879

M. D. Butler

Notary Public

Southampton County: In the Clerk's
Office: Feby 17th 1879. This Deed of Trust
from J. Smith to R. A. Bristow Trustee
for the benefit of Geo A Humphrey was
this day received and on February 28th
1879. with the certificate annexed
admitted to record, the tax thereon being
paid.

Teste: L. R. Edwards C. C.

"Will"

In the name of God, Amen:

I, J. Frank Smith of the County of Southampton
and State of Virginia being weak in body
but of sound mind and memory thanks be
unto Almighty God for the same. do think
proper to make this instrument of writing
as my last will and Testament in
manner and form following viz:

Item: I give unto my beloved wife
Mary A. Smith all of my estate both
real and personal of every kind whatsoever
to have and her heirs forever to dispose of
as she may think proper.

Item: I do hereby ~~revoke~~ ^{cancel} all former
wills made by me heretofore.

In witness whereof I hereto have set my
hand & seal this 23rd. day of January 1895
Signed sealed & delivered } J. F. Smith Seal
in the presence of
Joseph H. Barnes
Jephtha W. Johnson

Southampton County Court: April Term 1895.

A writing purporting to be the last will
and Testament of J. F. Smith dec'd. was
produced in Court and sworn to by the
oaths of Joseph H. Barnes and Jephtha W.
Johnson the subscribing witnesses thereto
and ordered to be recorded as the last will
and testament of the said J. F. Smith
deceased. And there being no executor named
in the will on motion of Mary A.
Smith who made oath according to
law and together with Edwin Bradshaw

and J. J. Johnson as her security who justified
on oath as to their sufficiency, entered into
and acknowledged a bond in the penalty of one
hundred Dollars, conditioned as the law
directs, which bond is ordered to be recorded
certificate is granted the said Mary A. Smith
for obtaining Letters of Administration on the
Estate of the said J. D. Smith decd,
with the will aforesaid annexed in due form.
Teste: B. J. McLeary C. C.

E

Will of Smith J. D.

Book 21 Page 672

1897. mach. From Air 64 p.

NOTED BY THE
JAMES H. BROWN

•Ve8I r07r4l do Yab bu88 a1n3 bue9t

[illegible]

ATLANTA Southern Railway Company

[illegible]

To the Honorable Robert B. Prentiss, Judge of the Circuit Court of
Southampton County.

The answer of Mary A. Gardner formerly Mary Smith, to a bill in equity exhibited in the Circuit Court of Southampton County, against her by Mella Scott by Henry Scott her next friend.

This respondent saving and reserving to herself the benefit of all exception &c which may be had or taken to the said bill for answer thereto or to so much thereof as she is advised it is material that she ~~should~~ ^{that} answer, answers and says: that it is not true, this respondent had any knowledge of the application of the purchase money for the land sold by J.F. Smith to Missouri Scott. That indeed she did not know that the money had been paid to the beneficiary in the deed of trust in the bill mentioned or to any body, as the said sale was made to the said Missouri Scott before the said J.F. Smith was married to this respondent and she knew and now knows nothing about the payment of the purchase money. And she her denies the said allegation in the said bill.

This respondent denies that she received to her use and benefit any residue from the ~~the~~ proceeds of the sale of the said land when the ~~the~~ same were sold under the trust-deeds mentioned in the said bill, but says that she bought the entire tract of land and paid therefor the sum of \$610.00, that she paid to Jno. A. Hundley the amount due on the debt secured by the said deeds of trust and that the balance of said purchase price was applied to the payment of the debts outstanding against the estate of the ^{said} J.F. Smith. And this respondent here states that had she known that the said land alleged to have been sold to Missouri Scott was not included in the trustees sale or that the money paid by the said Missouri Scott had been applied to the part payment of the debt secured by the said deed of trust, she would not have paid the sum of \$610.00 for the same. on the contrary however she bought the entire prop-

erty in the sum of \$610.00 without any knowledge whatever that the said Missouri Scott had paid any part of the purchase price on the debt secured by the said deed of trust, and to deprive her ^{the respondent} of this property now ~~which~~ which she bought and paid for as aforesaid, would be ~~against~~ against equity and good conscience. Your respondent therefore prays that the injunction heretofore awarded against her may be dissolved and she be allowed to proceed with her suit for the recovery of the said land.

And now having fully answered she prays hence to be dismissed &c

Mary A. Gardner.

Virginia Southampton County to wit:

I, Jno. N. Sebrell, a notary public in and for the county and state aforesaid do hereby certify that Mary A. Gardner whose name is signed to the foregoing answer, has this day appeared before me in my said county and state and made oath that the statements therein contained so far as made of her own knowledge are true and so far as made from information derived from others she believes to be true.. Given under my hand this 22nd day of March 1897.

Jno. N. Sebrell
Notary Public.

Scott

\$5

Smith

1897 Sept 10

Served Sept 13th
by L. L. Hatfield
Deputy Sheriff

Executed this 13th ~~1897~~
day of Sept. 1897. by
delivering a copy hereto
to the within named parties.

L. L. Hatfield Deputy
for J. W. Williams
Sheriff

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

*Merrit Johnson, Joseph Johnson,
Mary A. Johnson, Joe Barnes, Benio Barnes, Robt
Warrell, J. S. Drury, Stack J. Rogers &
P. B. McLeod, Jr.*

to appear before the Judge of our County Court of Southampton County, at the Courthouse thereof,
on the *14* day of *Sept*, 189*7*, to testify and the truth to speak on behalf
of

in a certain matter of controversy in our said Court ~~depending and undetermined~~ between

*Scott
Smith*

, plaintiff, and
, defendant,

And this *they* shall in no wise omit, under the penalty of the law. And have then there this writ.

Witness, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this *10* day
of *Sept*, 189*7*, in the 12*2* year of the Commonwealth.

TESTE:

B. F. McLeod, C. C.
Comis

Smith
r } Before time.
Scott

These depositions
were taken by
consent.

J. B. Paine
H. J. Shands

J. W. F. J. Jr.
W. J. Brill.

1898. 2. 2" Mch. 2nd

L. A. Gay

The deposition of J. D. Peltow is also taken before me B. F. McSamsre Commissioner in chancery for the Circuit Court for Southampton Co. Va. at my office in Bristol and Va. ^{on Dec 14, 1899} is read as evidence in behalf of the plaintiff in the chancery cause of Miller Scott infant by next friend vs Mary a Smith (now Gardner)

Present J. B. Prince & Wm. Shanks attys for Pltff
" H. J. Sebell & J. N. Sebell Jr " " Dfde

The witness J. D. Peltow having duly affirmed & deposes & says
Please state your age, residence, occupation and do you know parties to this suit,

I am years old, reside in this county in the neighborhood of property in dispute am a farmer and know the parties to this suit

This is a suit brought by Miller Scott an infant and only heir of Missouri Scott dec'd to regain Mary a Smith now Gardner from proceeding at law in a suit of ejectment to recover possession of a tract of land containing about 20 acres, sold by one J. F. Smith in his lifetime to Missouri Scott. State whether you know any thing about the said sale, whether the purchase price therefor was ever paid, who received the

Same and see the facts connected with it

1 (C)

The only thing I know about the sale of this land came through what I heard in a controversy between Mr J. F. Smith and Jas. A. Hundley. Mr Smith asked me to act as his friend in settling the being at that time married to said Mary A. Smith now Gordon, Mr Smith and Mr Hundley were both present when this settlement was made in which Missouri Sevil was said to have paid to Jas. A. Hundley \$1000 for the land which she had bought and which Mr Smith claimed to go as a credit on the note due by said Smith to said Hundley and which was so allowed

Excepted to by defts. atty. on the ground it gives what purports to be a mere conversation of third parties and not made in the presence of either the plaintiffs and defendants in this cause. and is hearsay testimony

3.2

What not that a settlement made in a suit brought by J. F. Smith vs Jas A Hundley in the circuit court

of Southampton Co Va. to enjoin the said
Bundley from selling his real estate
under the deeds of trust which he held
thereon and which suit was dismissed
at the May Term 1892 of said court?

Excepted to by dft's attys as being leading

3rd a

yes

7th
4. 2

Does either one of your sisters hold a deed
of trust on said land bought by said
Mony A. Smith (now Gardner), under the
trust sale made by R. A. Bristow and Jno
H. Schell & Trustees for the benefit of
Jno. A. Bundley?

Excepted to by dft's attys on the ground the records
are the best evidence

4th a

yes. Sarah D. Poillon, a certified copy
of said deed of trust is filed herewith
as a part of this deposition,

6th 2

Do you know who delivered the money
furnished as aforesaid by your sisters
to Mrs Smith and for what pur-
pose?

5th a

I delivered it to J. H. Schell & Trustees to
pay off the incumbrance on the land

6th 2

Do you know whether the land covered
by said trust deed, exclusive of

the 20 acres sold to Missouri Scott.
would sell for enough to pay the amount
loaned by your sisters?

6th a

I think it would sell for more than
enough

7th
7.2

Do you know that Mary a Smith, now
Gardner, at the time she bought the
land under the trust sale from R. A.
Bristow and J. N. Sebill Sr Trustees,
had any knowledge of the sale
of the 20 acres of land to Missouri
Scott by J. F. Smith her husband; and
that the same had been paid for
by Missouri Scott and that the
purchase price to wit. the sum
of \$100. had been paid to Jas. A.
Bundley the beneficiary under the
deeds of trust from her husband J. F.
Smith?

7th a

I can't say that she had any
positive knowledge, except that the
land was close to her house and
this woman, Scott, was living
on it and had been for several
years and it was commonly reported
that she had bought it.
Excepted to by affidavits as to so much
of said answer as relates to reports

8th 2

Do you know why this suit referred to between Smith and Stendley was dismissed

8th a

yes sir. because there had been a satisfaction or arrangement made between the parties to that suit before court came on

9th 1/2

cross exam by dft's attys
How long had Missouri Scott at the time of her death been living on said land?

12th a

I don't know; but know of her living there once or four years before the suit of Smith vs Stendley

2nd 2

was she not living on the said tract of land at and before the time she purchased the said land

2nd a

I don't know Missouri Scott but saw people living there. I don't know that she was living there before she purchased it

3rd 2

Do you know of your own knowledge that Missouri Scott lived there or all?

3rd a

I do not.

4th 2

How far do you live from the land in question?

4th a

about three miles.

5th 2

what was the amount loaned by your sister to Mrs Smith

5th a

I think \$500-

6th 2

Did you not know at the time you made this loan for your sister that a part of the land owned by J. F. Smith and conveyed by him in deed of trust to R. G. Briskow & J. H. Sebell or Trustees, had been sold to a Mrs Horrell before the sale of the same by the said Trustees?

6th a

yes sir I thought two pieces had been sold, one to Missouri Scott and one to Mrs Horrell

7th 2

Do you think that the Smith tract, exclusive of the parts sold to Missouri Scott and Mrs Horrell would sell for enough to satisfy the debt & interest due your sister?

7th a

yes sir.

and further this department
Dogeth not

Signed

J. H. Bretton

The witness Jephtha H. Johnson having duly
affirmed & deposes and says as follows

1st Q

Please state your age, residence, occupation
and do you know the parties to this suit

1st A

I am 47 years old, reside in this county
near the property in dispute, am a farmer
and know the parties to this suit

2nd Q

State whether you know that Mary A
Smith now Gardner and who was
formerly the wife of J. F. Smith, knew
at the time she bought the land conveyed
by her husband J. F. Smith to R. A.
Bristol and J. H. Sebell Sr Trustees to
secure debts due Jas. A. Shundley by
said J. F. Smith that a portion of said
land had been sold by her husband
J. F. Smith to Missouri Scott, that
the same had been paid for
by said Scott and that the
purchase price to wit; the sum
of \$100 had been paid to Jas
A. Shundley the beneficiary in
the deeds of trust?

2nd A

yes Sir I know she knew, because
I and her husband Frank; had
talked about it in her presence
many a time and she did not
stop up her ears and I know

she is bound to have heard it. I remember on one occasion the date I can't now recall; when they were discussing the matter and Smith said as Mr. Bundley hadn't given him any receipt for the amount thus paid. They seemed to be very much disturbed and feared Bundley might not give them proper credit and they then discussed the matter fully

born in by after all

1st Q

Do you know of your own knowledge of what amount claimed by them as a credit due them by J. A. Bundley was referred to in the said conversation?

PTA

I know as near as I know any thing that I don't exactly know. I think was the \$100 paid Bundley by Scott

2nd Q

Was it stated in the presence of Mrs. Smith in the conversation referred to, that the payment referred to, and for which they claimed credit, was the amount paid to Bundley by Garrison Scott?

2nd A

yes I distinctly remember that was the subject we were talking of

3rd

Do you state positively that it was stated that payment which had been made by Smith to Shunday was the amount which had been paid by Missouri Scott?

3rd a

I do most positively think that was the \$100 that was paid by Missouri Scott to Mrs. A. Shunday, which was referred to in the said conversation.

4th q

was it so stated in that conversation?

4th a

I do not remember all the conversation but I so understood it.

5th q

How long has it been since that conversation and who was present?

5th a

I can't tell how long it has been, no one present but Mr. Smith and his wife & I

6th q

Do you remember ~~the~~ clearly that it was stated in the conversation above referred to that the payment made to Shunday was the payment made by Missouri Scott?

6th a

I remember very clearly that that was the subject of the conversation and no other matter referred

to about it

7th Q

Was not your conversation more about the fact that Smith had made a payment to Obundley, than where the money come from, and is it not a fact that no one present said anything about where the money come from?

7th A

Well our conversation to the best of my recollection was ^{about} where the money come from.

8th Q

Why should you have been talking principally about where the money come from when you state that Mr Smith had some embezzlers because Mr Obundley hadn't given him a receipt. Is it not natural that you should have been talking principally about the payment having been made to Obundley?

8th A

I don't recall as I remember Frank remarked to me that that money I got from Missouri Secy. Jno Obundley hadn't given me him any receipt for and then a general conversation ensued about it

9th q

Did not Smith make other payments to Bundy and is it not possible that it was of some of these that Smith had reference to in his conversation.

9th a

Well he had some other transactions with Bundy, he might have referred to these other transactions, but I know of no other debt amounting to \$100. that he owed Bundy.

10th q

Was Mrs Smith present during all the conversation

10th a

I don't remember

11th q

Is it not a fact that the length of time since the conversation and the fact that you never expected to be called upon to relate any of the same has dimmed your recollection

11th a

It has not dimmed it so that I don't recollect that we had such a conversation. I can't give all the details of it, but recollect that Mrs Smith was fired up about it and seemed more disturbed than her husband

12th 2

Can you conscientiously say ^{that Mrs Smith} heard any body say ^{that the money paid} Hurdley ^{by J. F. Smith} was the same money paid by Missouri State for the land in question?

12th a

yes I heard her husband say so in her presence a number of times etc
and further this deposition signed
Jephtha W. Johnson.

The witness Jos. M. Bollman being duly sworn deposes and says I 34 years old. lives near the property in dispute and know the facts to this suit

1st 2

State whether you ever heard Mrs Mary A. Smith, who was the wife of J. F. Smith, say anything in regard to the money for the price of land bought by Missouri State of said J. F. Smith and if so when and where she said

1st a

Sometime before Mrs Smith's death I think in 1891. Missouri State and I went up to Mrs Smith's and Missouri asked Mr Smith what about the deed of her land?

and Mrs Smith told Missouri to
one Mr Bundley and make him
give a deed for the land

2nd 2

Do you know whether Mrs Smith knew
at that time who got the money
for the land sold Missouri Scott?

2nd A

She didn't say.

Cross Exam by opp's atty.

1st 2

Wasn't you at the time of Missouri Scott's
death her husband?

1st A

yes Sir

2nd 2

Were any children born to you during
your marriage

2nd A

yes one and it is dead now. lived
three months or so days
and further this deponent says not

Witnesses who attended Signed J. W. Johnson

J. W. Johnson

Geo. W. Johnson

Mr. Brown

Mrs. Brown

J. T. D. Young

Donnell

John D. Johnson

By consent of parties to this suit by their
attorneys the further taking of these
depositions is adjourned to another
day to be named by said attorneys

Virginia:

Southampton County - to wit:

J. B. F. McLemore, a Commissioner in Chancery
of the Circuit Court for the County aforesaid,
State of Virginia, do certify that the foregoing
depositions of J. D. Fulton & others was duly
taken, sworn to and subscribed before me
at this time and place, and for the purposes
stated.

Given under my hand this 14th day of Sept
1897.

B. F. McLemore,
Comm^r in Chancery.

Commissioner for
J. B. F. McLemore, do Plaintiff

Scott by vs
vs } Statement of costs
Smith

Scott by cc.

vs. } Statement of Corbett
Smith

Injunction order 36. Copies to serve on Smith 72 = 1.08

Receipt 18. atty. 10. Docket 18. file bill 15 = .61

D. Exhibits 35. Copy Exhibits \$2.70. file Smith and 15 = 0.30

Replication 15. 2 deans 72. 3 continuances 75 = 1.62

Filing Depositions 15. Law & order 40 = .55

Abstract of deans 25. Execution 50. receipt 18 = .93

Filing away papers 25 = .25

\$0 B. F. M

Docket Judgment 25. file away abstract 20 = .45

2/23/1900. Pd by Henry Scott. L. A. Gay to work \$8.79

Shiff 4.50

Law re. 16.50

\$29.79

Amount B. F. McLenore Account 6.00

Hennison J. W. Johnson 50

Mrs J. W. Johnson 50

Jac Barnes 50

Fannie Barnes 50

Robt Worrell 50

Jos. T. Drewry 50

Jos M. Holloman 50 =

3.50

\$39.29

Paid: L. A. Gay to G.

1111

Scott by O.C.

H. } Decem
Smith.

Dec 8 1896

Executed Dec 8th
1896 by delivering a
copy of this book to
Mary A. Smith.

W. E. Pardon kept
for J. R. Williams
Shiff

Entered page 106

In the Circuit Court for Southampton County,
September term 1896.

Milla Scott infant by next friend,

vs.

} Decree
Mary A. Smith.

An injunction is awarded the plaintiff
restraining and enjoining the defendant Mary-
A. Smith the plaintiff in a suit at law styled
Mary A. Smith against Scott & others defendants
from ^{the} further prosecution of said suit until the
further order of this Court, and it is further
ordered that a copy of this order be served
on the said Mary A. Smith.

A copy.

Test: L. A. Gay C. J.

Scott by re
vs 3 Deane
Smith

Enter this
April 16th 1897

Robert Deane

Scott by re
as 3 Deere
Smith

This day this cause come
on to be heard on the papers formerly
read. the answer of Mary A. Gardner formerly
Mary A. Smith ^{with} general replication
thereto. and ^{the} depositions filed in this
cause ^{by the complainant}. and was argued by counsel
on consideration whereof the Court
doth a judge order and decree that
the injunction awarded at the
September Term 1896 of this Court
restraining and enjoining Mary A. Smith
^{and Mary A. Gardner} the plaintiff in a suit or law styled
Mary A. Smith against Scott and others
be made perpetual. and that the
defendant Mary A. Gardner formerly
Mary A. Smith do pay unto the
plaintiff in this cause her costs by
her about her suit in this behalf
expended
Nothing further remaining to be done in this
cause it is ordered that it be removed
from the docket -

Scatt by 83
on 3

much 3 3 2

1846 Sept 29

Inter. Chas

~~Not in~~ ~~Notes~~

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1846 Sept 29

Inter. Chas

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1846 Sept 29

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1846 Sept 29

Inter. Chas

~~Not in~~ ~~Notes~~

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2

Milla Scott infant by next friend

vs $\frac{3}{3}$ Deere

Mary a Smith

An injunction is awarded the
plaintiff restraining and enjoyn-
ing the defendant Mary a. Smith
the plaintiff in suit at law
styled Mary a Smith against Scott
or her co-defendants from further
prosecution of said suit until the
further order of this Court, and it
is further ordered that a copy of
this order be served on the said
Mary a Smith.

Score by 4.
or 3 Deere
Smith.

Oct 4. 1898

Enter this.

Robert R. Perkins

The Current.

Amie McLaughlin

Shando Don J. K.

Wm S. Holland

Entered Page # 225

Sett by H.
or $\frac{3}{4}$ Decree.
Smith

By consent of parties present in
open Court, it is agreed that this
cause may be submitted to the Judge
of this Court for such decision and
decision thereon in vacation or might
be made in term.